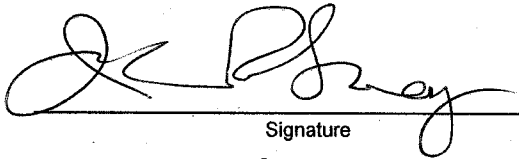


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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 10233-701.201	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] June 6, 2008 by EFS on _____ Signature _____ Typed or printed name _____	Application Number 10/681,821	Filed 10/07/2003	
	First Named Inventor Anant V. HEGDE ET AL.		
	Art Unit 3762	Examiner J. STOKLOSA	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number 32,062</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input type="checkbox"/> *Total of _____ forms are submitted.</p>			
Signature  James R. Shay Typed or printed name		Telephone number 650.212.1700 Date June 6, 2008	

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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FILED VIA EFS ON JUNE 6, 2008

Attorney Docket No. 10233-701.201

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Appl. No.	:	10/681,821	Confirmation No.:	6623
Applicant	:	Anant V. HEGDE et al.		
Filing Date	:	October 7, 2003		
Title	:	Vascular Assist Device and Methods		
Group Art Unit	:	3762		
Examiner	:	Joseph A. STOKLOSA		
Docket No.	:	10233-701.201		
Customer No.	:	66854		

ARGUMENTS IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR REVIEW

MailStop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, Appellants submit these Arguments in support of Applicants' Pre-Appeal Brief Request for Review, which is filed herewith, together with a Notice of Appeal from the Final Office Action dated April 30, 2008.

ARGUMENTS FOR REVIEW

In the Office Action dated April 30, 2008 (the "Final Office Action"), the Examiner acknowledged that claims 1-34, 36-39, 122-134 and 136-170 are pending and presented the following final rejection of the claims:

Claims 1-3, 9, 12, 14-17, 19-20, 26-27, 31, 36-39, 122, 136-139 and 143 stand rejected under 35 U.S.C. § 102(b) or § 103(a) over Easterbrook US 6,238,334 (Final Office Action, p. 2);

Claims 4, 7, 8, 10, 11, 13, 18, 28-30, 32-34, 140-142, 144-146, 159, 160, 169 and 170 stand rejected under 35 U.S.C. § 103(a) over Easterbrook (Final Office Action, p. 5);

Claims 5 and 6 stand rejected under 35 U.S.C. § 103(a) over Easterbrook in view of Walsh US 6,902,522 (Final Office Action, p. 9);

Claims 21, 128, 129 and 161-164 stand rejected under 35 U.S.C. § 103(a) over Easterbrook in view of Franchi US 6,030,335 (Final Office Action, p. 9);

Claims 123-127 and 130-134 stand rejected under 35 U.S.C. § 103(a) over Easterbrook in view of Freed US 5,169,379 (Final Office Action, p. 11); and

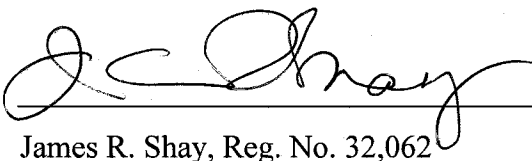
Claims 165-168 stand rejected under 35 U.S.C. § 103(a) over Easterbrook in view of Okuzumi US 6,587,734 (Final Office Action, p. 11).

The Final Office Action never states a ground of rejection for claims 22-25 and 147-158. Appellants therefore respectfully request that the Examiner clarify for purposes of this Appeal the status of these claims as being objected to for being dependent upon a rejected base claim. Alternatively, if the Examiner wishes to state grounds for rejection of these claims, Appellants respectfully request that the Examiner reopen prosecution to make the rejection(s).

Respectfully submitted,

Date: June 6, 2008

By:



James R. Shay, Reg. No. 32,062

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